

Judy Roberts
55 Plaskon Drive
Shelton, CT 06484

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health

vs.

Judy Roberts, RN
Registered Nurse License No. E53852
Respondent.

CASE PETITION NO. 961127-010-080

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health (hereinafter the "Department") with an Interim Consent Order executed by Judy Roberts (hereinafter the "Respondent") and the Department (Department Exhibit 1F). The Interim Consent Order provided for the Registered Nurse license of the Respondent to be suspended for of ninety (90) days pending a resolution of allegations by the Department that the Respondent engaged in conduct which fails to conform to the accepted standards of the nursing profession. The Interim Consent Order was accepted by the Board on May 21, 1997. The Board was presented by the Department with a First Amended Interim Consent Order which it accepted on August 13, 1997 (Department Exhibit 1G). The First Amended Interim Consent Order provided for the Registered Nurse license of the Respondent to be suspended for of one hundred twenty (120) days from May 21, 1997.

On November 19, 1997, the Department presented to the Board a Statement of Charges and Motion for Summary Suspension dated November 13, 1997 (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by the Respondent.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety.

On November 19, 1997, the Board ordered, pursuant to its authority under §4-182(c) and §19a-17(c) of the General Statutes of Connecticut, that the Registered license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges (Department Exhibit 1).

The Board issued a Notice of Hearing dated November 19, 1997, scheduling a hearing for December 3, 1997 (Department Exhibit 1).

The hearing began on December 3, 1997, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. The hearing was continued to December 17, 1997 so as to confirm that the Respondent was provide notice of the hearing. (Hearing Transcript, December 3, 1997)

The Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that Notice of Continuance of Formal Hearing, Motion for Summary Suspension and its relevant documents were served on the Respondent by Deputy Sheriff on December 6, 1997.

The hearing resumed on December 17, 1997, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut. The hearing was continued to March 18, 1998 due to the Respondent not being present. (Hearing Transcript, December 17, 1997)

The hearing resumed on March 18, 1998, in the Town Council Chambers, Wethersfield Town Hall, 505 Silas Deane Highway, Wethersfield, Connecticut. The Respondent was present but was not represented by counsel. (Hearing Transcript, March 18, 1998)

The Respondent submitted an oral answer to the Statement of Charges. (Hearing Transcript, March 18, 1998, pp. 6-8)

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. The Respondent was the holder of Registered Nurse License Number E53852 at all times referenced in the Statement of Charges. (Hearing Transcript, March 18, 1998, p. 7)
2. The Respondent has a history of alcohol use since childhood. On or about July 1996 the Respondent began abusing Cocaine. Since at least 1996 through approximately October 1997 the Respondent has abused or excessively used alcohol, Cocaine and Percocet. (Hearing Transcript, March 18, 1998, pp. 7, 19)
3. On or about September 16, 1996, while working the 11-7 shift at Barnett Multi Health Care, Bridgeport, Connecticut the Respondent was found asleep while on duty and was unable to be aroused. (Department Exhibit 1A, 1B) (Hearing Transcript, March 18, 1998, p. 7)
4. The Respondent underwent inpatient chemical dependency treatment in December 1996. The Respondent relapsed and again engaged in inpatient treatment from April 1997 to May 1997. (Department Exhibit 1C)
5. The Respondent was employed at Mariner Healthcare, Ansonia, Connecticut at the time of her April 1997 inpatient chemical dependency treatment. (Department Exhibit 1C)

7. The Respondent entered into the Blue Hills Hospital Intensive Treatment Program, Hartford, Connecticut during the fall of 1997 due to a relapse. (Department Exhibit 1E) (Hearing Transcript, March 18, 1998, p. 12)
8. Following her discharge from Blue Hills Hospital the Respondent had additional relapses and subsequent treatments. Since on or about February 6, 1998 the Respondent has participated in a chemical dependency program at Connecticut Valley Hospital, Middletown, Connecticut. (Hearing Transcript, March 18, 1998, pp. 9-13)
9. The Respondent's abuse of alcohol, Cocaine and/or Percocet does and/or may effect her practice as a nurse. (Hearing Transcript, March 18, 1998, pp. 7-8)
10. The Respondent does not feel she would be able to return to the practice of nursing in a setting that would involve the administration of medications. (Hearing Transcript, March 18, 1998, pp. 21-22)
11. The Respondent would like to continue her education and pursue a bachelors degree in nursing. (Hearing Transcript, March 18, 1998, p. 33)

DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

Judy Roberts held a valid Registered Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177(a) and (b), and §4-182(c). The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19a-9-1 through §19a-9-29 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

PARAGRAPH 3 of the Statement of Charges alleges that on or about September 16, 1996, while working as a registered nurse at Barnett Multi Health Care, Bridgeport, Connecticut the Respondent unable to be roused while on duty.

PARAGRAPH 4 of the Statement of Charges alleges that since at least 1996, until approximately October of 1997, the Respondent abused or excessively used alcohol, Cocaine and/or Percocet.

PARAGRAPH 5 of the Statement of Charges alleges that the Respondent's abuse of alcohol, Cocaine and/or Percocet does and /or may effect her practice as a nurse.

The Respondent admits these charges. (Answer: Hearing Transcript, March 18, 1998, pp. 6-8)

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (5) abuse or excessive use of drugs, including alcohol, narcotics or chemicals...."

Based on its findings and the Respondent's admissions, the Board concludes that the Respondent's conduct as alleged in Paragraphs 3, 4, and 5 of the Statement of Charges is proven and that said conduct constitutes a violation of the General Statutes of Connecticut §20-99(b)(5). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

In determining appropriate sanctions in this matter the Board may consider, in addition to the charges upon which there is a finding of guilt, any evidence presented during the hearing which is relevant to the

Respondent's ability to practice nursing in accordance with the accepted standards of the nursing profession.

The Board found that the Respondent has engaged in substance abuse treatment on various occasions, however, the Respondent relapsed following discharge from treatment. At the time of this hearing the Respondent is participating in an inpatient treatment program and has only two months of sobriety.

The Board concludes that the Respondent has an insufficient period of sobriety and has not demonstrated an ability to maintain her sobriety following discharge from inpatient treatment. The Board therefore concludes that the Respondent is not able to practice nursing with reasonable skill or safety.

ORDER

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

1. That the Respondent's registered nurse license, No. E53852, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.
2. At any time should the Respondent pursue plans to attain of Bachelor of Science in Nursing degree, the Respondent shall petition the Board for reinstatement of her registered nurse license for the purpose of participating in a baccalaureate program. At such time the Respondent shall have the burden of presenting relevant evidence to the satisfaction of the Board that she is able to practice nursing with reasonable skill and safety. Said evidence shall include, but not be limited to, the following:
 - A. Documentation and/or testimony from a licensed therapist regarding the Respondent's ongoing recovery, drug/alcohol free status, emotional health, and ability to administer safe nursing care.

- B. Documentation and/or testimony regarding the Respondent's employment history and ability to responsibly and accurately carry out assigned duties.
- C. Laboratory reports of random chain of custody alcohol/drug screens which support the Respondent's alcohol/drug free status.
- D. Documentation and/or testimony regarding the Respondent's participation in support groups and support of a sponsor.

The Board of Examiners for Nursing hereby informs the Respondent, Judy Roberts, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 15 day of July 1998.

BOARD OF EXAMINERS FOR NURSING

By 